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JUN 4 1969
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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, [redacted] 1969

No. [redacted] 194

VETERANS OF THE ABRAHAM LINCOLN BRIGADE, et al.,
Petitioners,

v.

THE ATTORNEY GENERAL OF THE UNITED STATES, et al.,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Petitioners pray for a writ of certiorari to review the judgment of the United States Court of Appeals for the District of Columbia Circuit remanding the cause in accordance with the Court's opinion dated February 14, 1969.

OPINION BELOW

The District Court issued no opinion. The opinion of the Court of Appeals has not as yet been reported and is appended hereto as Appendix A. The judgment is appended hereto as Appendix B.

JURISDICTION

The judgment of the Court of Appeals was entered on February 14, 1969. A timely petition for rehearing was denied on March 14, 1969. The jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S. Code, section 1254(1).

QUESTIONS PRESENTED

1. Whether the provisions of Executive Orders 9835 and 10450 authorizing the Attorney General to designate organizations as totalitarian, fascist, Communist, subversive, etc., are unconstitutional on their face.

2. Whether the Attorney General's designations of organizations pursuant to said Executive Orders violate the First, Fifth and Tenth Amendments to the Constitution, and constitute bills of attainder.

3. Whether an organization which the Attorney General has designated as "subversive", or its members, can challenge the constitutional powers of the Attorney General to list organizations without first exhausting the administrative procedures set up by the Attorney General.

4. Whether a complaint challenging the Attorney General's power to list organizations as subversive which raises only constitutional questions is barred by laches when the complaint seeks only relief for the future and there is no prejudice to the government arising from any delay in filing the suit.

5. Whether any rational purpose is served by remanding the case to the Attorney General where

(1) The sole issue raised by the complaint is the lack of constitutional power of the Attorney General to act;

(2) There are neither regulations nor any guidance given in the court opinion as to the issues to be resolved by the remand or the procedure for resolving them.

STATUTES, EXECUTIVE ORDERS AND REGULATIONS INVOLVED

The pertinent provisions of Executive Orders 9835 and 10450 and of the Attorney General's Rules of Procedure, 18 F.R. 2619, 28 C.F.R. Part 41, are set forth in Appendix C, *infra*.

STATEMENT OF THE CASE

On or about March 21, 1947, the Attorney General of the United States issued, pursuant to Executive Order 9835, a list of organizations separately characterized as "totalitarian, fascist, Communist or subversive." Among the organizations listed as "Communist" were petitioner, the Veterans of the Abraham Lincoln Brigade (hereafter called the Veterans), and the Abraham Lincoln Brigade (hereafter called the Brigade). The designations were made without notice or hearing, and no provision existed for seeking administrative relief. (R. 3, 7-8).

The Veterans is an unincorporated association of those members of the Brigade who returned to the United States from Spain after fighting from 1936 to 1938 in the armed forces of the Republic of Spain in support of the constitutionally elected government against insurgent, fascist forces. The individual Petitioners served in the Brigade during the Spanish Civil War and are members of the Veterans. The purpose and activities of the Veterans were to foster and continue the friendships formed in Spain during this period, to provide rehabilitation and medical care for members of the Brigade, to assist them in obtaining employment, food and living facilities upon their return to the United States, and to publish a periodical devoted to their activities. (R. 2).

On April 22, 1953, the Attorney General petitioned the Subversive Activities Control Board for an order requiring the Veterans to register as a "Communist-front organization" under section 7 of the Subversive Activities Control Act, 50 U.S. Code §§ 781, et seq. (R. 3, 9).